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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,191	11/14/2003	John Fritsch	12-9540-6520-0000-1	9356

55851 7590 08/30/2005

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EXAMINER

SHARP, JEFFREY ANDREW

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,191

Applicant(s)

FRITSCH, JOHN

Examiner

Jeffrey Sharp

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2005 and 14 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

[1] This action is responsive to Applicant's remarks/amendment filed on 22 June 2005 with regard to the Official Office action mailed on 22 December 2004.

Status of Claims

[2] Claims 1-17 are pending.

Drawings

[3] The drawing(s) were previously objected for informalities. In view of Applicant's replacement drawing(s) submitted on 22 June 2005, all previous objection(s) to the drawings have been withdrawn. Accordingly, the changes have been entered.

Claim Objections

[4] Claim 2 was previously objected to because of informalities. Applicant has successfully addressed these issues in the amendment filed on 22 June 2005. Accordingly, the objection to the claim 2 has been withdrawn.

Response to Arguments/Remarks

[5] Claims 1 and 2 have been amended.

Claim 1 was previously rejected under 35 U.S.C. 102(b) as being anticipated by Basickes et al. US-6,152,412, Hirose US-5,599,148, and Jhumra et al. US-6,287,064. Applicant has amended claim 1 such that these references no longer appear to anticipate the limitations

disclosed therein. Consequently, upon further consideration, a new ground(s) of rejection necessitated by amendment is made below.

Claim 2 was previously rejected under 35 U.S.C. 102(b) as being anticipated by Jhumra et al. US-6,287,064. Applicant's arguments/remarks with regard to this reference have been fully considered, but are not persuasive. Consequently, this rejection stands. The examiner takes the position that the screw taught by Jhumra et al. is, indeed, "configured to" (i.e., "capable of") tap threads into the acceptor as an intended use of the fastener. Jhumra et al. disclose a U-nut made from a polymeric material, and a screw (herein, "fastener") capable of tapping threads into the acceptor (see figure 6). Therefore, Jhumra et al. clearly teach a "fastener *configured to* tap threads".

Claim 2 was further previously rejected under U.S.C. 103(a) as being obvious over Hirose US-5,599,148. Applicant's arguments/remarks with regard to this reference have been fully considered, and are persuasive. Consequently, this rejection has been withdrawn.

Applicant's assertion¹ that John Fritch is the sole inventor of the present application is acknowledged, and therefore the oath and declaration is now presumed to be correct. Accordingly, the previous objection to the oath and declaration has been withdrawn, and a new rejection of claims 1-17 under 35 U.S.C. 102(f) stands in its place.

¹ Remarks submitted 22 June 2005, section A.

New Grounds of Rejection

Claim Rejections - 35 USC § 102

[6] The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

(f) he did not himself invent the subject matter sought to be patented.

[7] Claims 1-17 are rejected under 35 U.S.C. 102(f) because the applicant did not invent the claimed subject matter².

Applicant's assertion³ that John Fritch is the sole inventor of the present application is acknowledged, and therefore the oath and declaration is now presumed to be correct. The sole inventor (John Fritch) has effectively admitted that Kent Kallsen is the sole inventor of the entire disclosure of the present invention⁴, and/or that the present invention was known "by another".

² refer to MPEP § 2137.

³ Remarks submitted 22 June 2005, section A.

⁴ page 1 of the originally filed specification

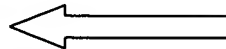
Express Mail mailing label number: EV269382741US

Date of Deposit: November 14, 2003

Our Case No.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
APPLICATION FOR UNITED STATES LETTERS PATENT

INVENTORS: Kent Kallsen
TITLE: U-Nut Fastening Assembly
ATTORNEY: Dana Andrew Alden
Registration No. 46,475
MacLean-Fogg Company
1000 Allanson Road
Mundelein, Illinois 60060



Applicant has not provided "a satisfactory showing that would lead to a reasonable conclusion that [applicant] is the...inventor" of the subject matter disclosed in the article and claimed in the application), as provided by MPEP§ 2137.

Claim Rejections - 35 USC § 103

[8] The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

[9] Claims 1-17 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Vasseur et al. US-5,779,411.

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In short, Vasseur et al. teach or at least render obvious, a U-nut (1) having a flex area (3), first substrate segment (2), and second substrate segment (4). The first substrate segment has a retainer comprising a first securing member (22) and second securing member (24) -- each having a stem (22,24), angled 45° surface (26,27), and coupling surface (28,29). The second substrate segment (4) has an acceptor (16) having first and second cooperating surfaces (8,11) and first and second securing surfaces (16). The first and second securing members are snap fit within the acceptor (abstract lines 1-2). The U-nut may comprise a fastener (15) configured to "tap threads into the acceptor" (col. 3 lines 35-38) so as to provide a clamping force. The U-nut has what could broadly be construed as an "installation member" (7,10,13) that is "configured to" (i.e., capable of) "resting upon an edge of a bracket (40,50). The installation member taught by Vasseur et al. is essentially "L-shaped" (acceptor segments 5 and 7 form an "L"), although, it has been held that a change in the shape of a prior art device is a design consideration within the skill of the art. *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1996). Note that any portions of the acceptor could be broadly construed as "a plurality of acceptor segments".

Conclusion

[10] The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

US 3122386 A	USPAT	STANLEY PEARSON ARTHUR
US 3144695 A	USPAT	BUDWIG GILBERT G
US 3588792 A	USPAT	Kindell, Colin
US 3595506 A	USPAT	Saunders; Thomas B.
US 3704739 A	USPAT	Holton; Robert J.
US 4100368 A	USPAT	Thomsen; Jack W.
US 4218954 A	USPAT	Morel; Henri
US 4286642 A	USPAT	Keatley; James

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US 4376605 A	USPAT	Thomsen; Jack W.
US 4761860 A	USPAT	Krauss; Mark
US 4955772 A	USPAT	Reck; Bernhard
US 5145273 A	USPAT	Hellon; Keith et al.
US 5320461 A	USPAT	Stanesic; John M.
US 5599148 A	USPAT	Hirose; Akihiko
US 5713707 A	USPAT	Gagnon; Michael G.
US 5820322 A	USPAT	Hermann; Fritz et al.
US 5893694 A	USPAT	Wilusz; John et al.
US 6152412 A	USPAT	Basickes; Stanley et al.
US 6206606 B1	USPAT	Mita; Kazuhiro et al.
US 6220806 B1	USPAT	Chapman; James Stephen et al.
US 6336779 B1	USPAT	Jakob; Andreas et al.
US 6450747 B1	USPAT	Fischer; John D.
US RE22926 E	USPAT	Tinnerman

[11] Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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[12] Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey Sharp whose telephone number is (571) 272-7074. The examiner can normally be reached 7:00 am - 5:30 pm Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on (571) 272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

NEW CENTRAL FAX NUMBER

Effective July 15, 2005

On July 15, 2005, the Central FAX Number will change to 571-273-8300. This new Central FAX Number is the result of relocating the Central FAX server to the Office's Alexandria, Virginia campus.

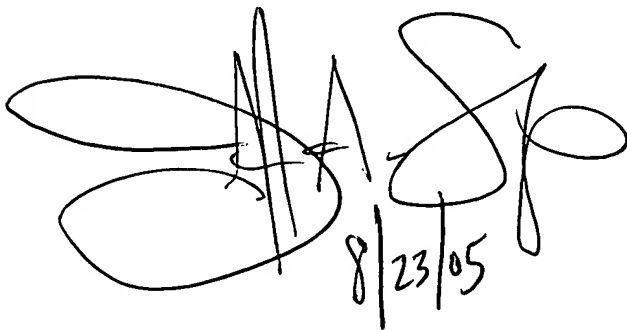
Most facsimile-transmitted patent application related correspondence is required to be sent to the Central FAX Number. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and 571-273-8300 will be the only facsimile number recognized for "centralized delivery".

CENTRALIZED DELIVERY POLICY: For patent related correspondence, hand carry deliveries must be made to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), and facsimile transmissions must be sent to the Central FAX number, unless an exception applies. For example, if the examiner has rejected claims in a regular U.S. patent application, and the reply to the examiner's Office action is desired to be transmitted by facsimile rather than mailed, the reply must be sent to the Central FAX Number.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JAS



8/23/05



ROBERT J. SANDY
PRIMARY EXAMINER